

### REMARKS

Applicants appreciate the careful consideration given by the Examiner in the final Office Action dated July 9, 2007. By this submission, claims 1-6 and 8-12 are amended, while claims 7 and 13-16 are canceled. Claims 1-6 and 8-12 are therefore currently pending. The Office Action is summarized as follows:

Claims 1-6, 8-13, and 15 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,795,685 issued to Walkup (hereinafter "Walkup") in view of U.S. Patent 7,116,894 issued to Chatterton (hereinafter "Chatterton").

Claims 14 and 16 are objected to as being dependent upon a rejected base claim, but are indicated to be allowable if rewritten in independent form.

Applicants would quickly point out what seems to be a minor error in the Action. While the rejection of claim 1 is stated to be made pursuant to §102(e), the analysis of the application in the body of the Action is in a manner consistent with rejections brought under 35 U.S.C. 103(a). Applicants have therefore addressed the rejections as though based on §103, but would respectfully request that should this assumption be incorrect, a new Action be generated clarifying why a §102(e) rejection is made over two references.

#### Rejections under §103(a)

With respect to independent claim 1, the Action states that the first signal reception unit is represented in Walkup by the mobile unit 204, while the base station 206 acts as the first radio communication unit. The Examiner seems to interpret the claim as though there is no timing involved, assuming that the second paragraph of the claim occurs first, whereupon the first radio communication unit transmits a signal that is subsequently received by the first signal reception unit, recited in the first paragraph of the claim. Applicants respectfully traverse this interpretation, but in order to expedite prosecution, have amended the claim to add the word

“further” before the word “transmitting” in the second paragraph. The same issue arises with respect to independent claims 6 and 8, and is addressed by Applicants in the same manner.

The Action proceeds to further describe the repeater unit 202, and in particular transceiver 212, as reading on a second radio communication unit capable of transmitting or receiving the signal. The Action then alleges that Walkup teaches detection of a communication of the signal by the second radio communication unit, and inhibition of the transmission of the signal by the first communication unit. See page 3 of the final Action, citing columns 5 and 6 of Walkup.

There has been substantial discussion in both the previous non-final Actions and in Applicants’ responses about both the structure and functionality of the devices in Walkup. Walkup discloses at least four basic components: VRS repeater 202 (with transceiver 212), mobile radio 204, portable device 208, and base station 206. In a previous submission, Applicants amended the independent claims such that it was distinctly clear that both communication units must be configured in the *same assembly*. Given an interpretation of Walkup where the base station 206 and repeater 202 (with transceiver 212) are described as communication units one and two, respectively, it is clear that communication units one and two are not configured in a single assembly.

Applicants, however, have considered an additional interpretation of Walkup. Because of the communicative coupling between each mobile unit 204 and its corresponding repeater 202 (see Walkup at column 5, lines 1-7), the reference could possibly be interpreted as connecting the two devices in a single assembly. It would be possible to further interpret Walkup such that mobile unit 204 is considered the first signal reception unit and the repeater transceiver 212 is considered the first communication unit that transmits the signal by radio. However, the reference would still fail to teach any additional features of the present invention as claimed. There is simply no way to interpret Walkup such that a second radio communication unit is provided *separately* for transmitting and/or receiving signals. At best, the transceiver 212 could

be considered a single communication unit that accesses the signal received by the first reception unit and additionally transmits the signal.

Applicants thus respectfully traverse the rejections under §103 in that Walkup does not teach the features of the invention as claimed. However, in order to expedite prosecution, Applicants have amended the claims to further distinguish embodiments of the present invention over Walkup. A non-limiting example of these distinctions can be seen in the analysis that immediately follows.

On page 3 of the Action, the Examiner asserts that Walkup teaches the detections and inhibition of signals and corresponding detection and inhibition units as recited in claim 1. While it is true that the word “detection” appears in Walkup, it occurs in a manner that does not correspond with the claim. As indicated in Fig. 1 and summarized at column 4, lines 44-65, Walkup discloses “detection” as occurring where a second repeater 104 (presumably via a transceiver 212) ascertains a signal transmitted from a first repeater 108. The signal from the first repeater is of a particular format, which indicates to the second repeater that the first repeater is of higher priority. The second repeater is de-prioritized and does not transmit any signal to a portable device 110. To restate, the second repeater remains idle and does not transmit the received signal. The Examiner points to columns 5 and 6 for support of his proposition, but it is the idling which is the essence of what the Examiner interprets as an inhibition of a signal and/or an “inhibition unit.” From the perspective of a given repeater 202 however, there is only *one* received signal, and the signal is or is not forwarded based on the information contained *in* the signal. To restate, from the perspective of the repeater, there is no *second* signal at all. Walkup cannot possibly teach the features of claim 1 relating to a detection unit and an inhibition unit because the claim *specifically requires 2 signals*.

As mentioned above, Applicants previously amended the independent claims to reflect that the communication units of the present invention are configured in the same assembly. In response to the amendment, the Examiner cites Chatterton as supplying this missing feature. Chatterton discloses a multimedia playback system that relates to converting digital multimedia

streams from a first format playable on a first type of system to a second format playable on a second type of system. The passage cited by the Examiner (column 9, lines 28-37; Figs. 1 and 5) merely describes a secondary advantage of the system that a central home server can relay home security and fire data to a network operating center for further forwarding to emergency dispatch when necessary.

MPEP §2141.01(a) states that, "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." [citing *In re Oetiker*, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992)]. This standard is clearly not satisfied when relating Chatterton to embodiments of the present invention. Applicants' inventions relate to a device, method, and computer-readable recording medium having a relay program recorded thereon that are suitable for transmitting/receiving communication signals and video signals. To the contrary Chatterton, "... relates generally to the field of multimedia playback systems...." and more specifically to, "converting digital multimedia streams from a first format playable on a first type of system to a second format playable on a second type of system." Not only does Chatterton fail to supply the missing limitations of Walkup, the reference is neither in the field of Applicants' endeavor nor reasonably pertinent to the problem solved by Applicants.

To establish a *prima facie* case of obviousness, the prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Additionally, there must be a reason why one of ordinary skill in the art would modify the reference or combine reference teachings to obtain the invention. *KSR International Co. v Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007). Applicants assert that the Action fails to presents a *prima facie* case of obviousness as to independent claims 1, 6, and 8 because the primary reference, Walkup, fails to teach or suggest each and every feature recited in these claims. Further, the secondary reference Chatterton fails to supply the missing features of Walkup, and is not related to the subject matter of Applicants' inventions, as described above. Finally, because the two references themselves do not correlate in any way, there is the motivation to combine the

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references, contrary to the tautological statements presented in the Office Action. Claims 1, 6, and 8 are viewed as allowable for at least these reasons.

As for each of dependent claims 2-5, and 9-12, these claims are also allowable for at least their dependencies from their corresponding independent claim, and/or for the further features claimed therein.

#### Objection to the Claims

Applicants respectfully traverse the objections to claims 14 and 16, but assert that the amendments to the claims, and cancellation of claims 14 and 16, render the objection moot.


#### Conclusion

In view of the above amendments and supporting remarks, it is believed that the claims of the application are now in condition for allowance. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact James M. Alpert, Registration No. 59,926 at the same telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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